APPEAL NO. 010077

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On December 12, 2000, a hearing was held. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) reached maximum medical improvement (MMI) on August 16, 1999, with a four percent impairment rating (IR) as certified by the designated doctor chosen by the Texas Workers' Compensation Commission (Commission), and that the claimant did not have disability from December 26, 1999, through August 10, 2000. The claimant appealed and the respondent (carrier) responded.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant reached MMI on August 16, 1999, with a four percent IR as certified by Dr. A, the designated doctor chosen by the Commission.

Section 408.122(c) provides that the report of the designated doctor has presumptive weight, and the Commission shall base its determination of whether the employee has reached MMI on that report unless the great weight of the other medical evidence is to the contrary, and Section 408.125(e) provides that, if the designated doctor is chosen by the Commission, the report of the designated doctor shall have presumptive weight, and the Commission shall base the IR on that report unless the great weight of the other medical evidence is to the contrary.

The claimant sustained a compensable injury to his left ankle on _____, for which he has received conservative treatment. Dr. L examined the claimant at the carrier's request and certified that the claimant reached MMI on August 16, 1999, with a three percent IR. Dr. A, the designated doctor, examined the claimant and certified that the claimant reached MMI on August 16, 1999, with a four percent IR. Dr. G, who is associated with the claimant's treating doctor, Dr. R, certified that the claimant reached MMI on August 10, 2000, with a four percent IR, and Dr. R agreed with the IR assigned by Dr. G. Dr. S, a referral doctor, wrote that four percent was a low rating. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer found that there was not a great weight of medical evidence contrary to Dr. A's certification of MMI and IR and determined that the claimant reached MMI on August 16, 1999, with a four percent IR as certified by Dr. A. The hearing officer's determinations on the MMI and IR issues are supported by sufficient evidence and are not against the great weight and preponderance of the evidence.

The hearing officer did not err in determining that the claimant did not have disability, as defined by Section 401.011(16), from December 26, 1999, through August 10, 2000.

The claimant's testimony and Dr. S's report releasing the claimant to regular-duty work in July 1999 support the hearing officer's determination on the disability issue and that determination is not against the great weight and preponderance of the evidence. We note that the claimant would not be entitled to temporary income benefits after having reached MMI. Section 408.102(a). The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Thomas A. Knapp
Appeals Judge